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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

[illegible]

WHEREAS, by Order dated August 3, 2004, the Court granted Plaintiffs' motion for partial summary judgment on their first and second claim, and, by Order dated January 3, 2005, the Court partially granted and partially denied Defendants' motion to alter or amend the judgment and Plaintiffs' motion for injunctive relief;

WHEREAS, by Order dated March 14, 2006, the Court granted in part and denied in part Plaintiffs' motion for summary judgment on all remaining claims, and, by Order dated September 26, 2006, the Court issued its remedy order partially vacating and remanding various challenged actions in the case;

NOW, THEREFORE, the Parties hereby Stipulate and Agree as follows:

1. Defendants agree to settle all of Plaintiffs' claims for costs and attorneys' fees in the above-captioned litigation for a total of \$400,000.00. A check or check(s) will be made payable in that amount to: Center for Biological Diversity, c/o Brendan Cummings, P.O. Box 549, Joshua Tree, CA 92252.

2. Defendants agree to submit all necessary paperwork to the Department of the Treasury's Judgment Fund Office pursuant to 16 U.S.C. § 1540(g)(4) within ten (10) business days of receipt of the signed court order approving this Stipulation;

3. Plaintiffs agree to accept payment of \$400,000.00 in full satisfaction of any and all claims for attorneys' fees and costs of litigation to which Plaintiffs are entitled in the above-captioned litigation, through and including the date of this agreement;

4. Plaintiffs agree that receipt of this payment from Defendants shall operate as a release of Plaintiffs' claims for attorneys' fees and costs in this matter;

5. By this agreement, Defendants do not waive any right to contest fees claimed by Plaintiffs or Plaintiffs' counsel, including the hourly rate, in any future litigation. Further, this stipulation as to attorneys' fees and costs has no precedential value and shall not be used as evidence in any other attorneys' fees litigation.

6. The schedule for a hearing on Plaintiffs' Motion for Fees and Costs as set forth in the parties April 5, 2007 Status Report (Dkt. # 205) is vacated.

Respectfully submitted this 8th day of May, 2007

MATTHEW J. McKOWEN
Acting Assistant Attorney General

/s/ Michael R. Eitel
MICHAEL R. EITEL, Trial Attorney
(SBN 22889 (Neb.))

/s/ Brendan Cummings (authorized via email)
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9 Pursuant to Stipulation, IT IS SO ORDERED.

10
11 5/8/07

12 DATED: _____



HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE